

40.15. CONDITIONAL USE**40.15.05. Purpose.**

The purpose of a Conditional Use application is to allow uses on a case by case basis which warrant special review because of their size or operation. These uses are subject to the conditional use regulations because they may, but do not necessarily, cause significant adverse effects on the environment, overburden public services, change the character of an area, create or foster nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts these uses may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose conditions specifying mitigation measures to address identified impacts, or to deny the use if the impacts are substantial and the impacts cannot be mitigated. A Preliminary, Final, or both Planned Unit Development approval may allow adjustment, variance, or both to Site Development Requirements in Chapter 20 (Land Uses) without the necessity for separate Adjustment or Variance application, findings, and approvals. This Section is carried out by the approval criteria listed herein.

40.15.10. Applicability.

The uses listed in Chapter 20 (Land Uses) for each zoning district as a Conditional Use shall be subject to the provisions of this section.

40.15.15. Application.

There are six (6) conditional use applications which are as follows: Minor Modification of a Conditional Use, Major Modification of a Conditional Use, Administrative Conditional Use, New Conditional Use, Preliminary Planned Unit Development, and Final Planned Unit Development.

1. Minor Modification of a Conditional Use.

A. Threshold. An application for Minor Modification of a Conditional Use shall be required when one or more of the following thresholds apply:

1. An increase in the gross floor area of a conditional use up to and including 10% and less than 1,000 gross square feet of floor area for all properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.

40.15.15.1.A.

2. A projected or actual increase in vehicular traffic to and from a site approved for a conditional use of up to and including 100 vehicle trips per day as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Minor Modification of a Conditional Use. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Minor Modification of a Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Minor Modification of a Conditional Use application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. The proposal complies with conditions of an applicable conditional use approval.
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.15.15.1.

- D. Submission Requirements. An application for a Minor Modification of a Conditional Use shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Minor Modification of a Conditional Use application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Minor Modification of a Conditional Use application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

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2. Major Modification of a Conditional Use.

- A. Threshold. An application for Major Modification of a Conditional Use shall be required when one or more of the following thresholds apply:
1. Any increase in the gross floor area of a conditional use on properties located in a residential zoning district or within a distance of up to and including 50 feet of a residential zoning district.
 2. An increase in the gross floor area of a conditional use by more than 10% or in excess of 1,000 gross square feet of floor area for all properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.
 3. Any projected or actual increase in vehicle trips per day to and from a site approved for a conditional use as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are located in a residential zoning district or are located at a distance of up to and including 50 feet from a residential zoning district.
 4. A projected increase in vehicular traffic to and from a site approved for a conditional use of more than 100 vehicle trips per day as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.
 5. Modification of one or more conditions of approval which apply to an approved Conditional Use.
 6. Any increase in the number of dwellings or residential lots.

40.15.15.2.

- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Major Modification of a Conditional Use. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Major Modification of a Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Major Modification of a Conditional Use application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal complies with the applicable policies of the Comprehensive Plan.
 4. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.
 5. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.15.15.2.

- D. Submission Requirements. An application for a Major Modification of a Conditional Use shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Major Modification of a Conditional Use application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Major Modification of a Conditional Use application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

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3. Administrative Conditional Use.

A. Threshold. An application for Administrative Conditional Use shall be required when one or more of the following thresholds apply:

1. Placement of one or more portable classroom on a public or private school site.

[ORD 4332; November 2004]

B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Administrative Conditional Use. The decision making authority is the Director.

C. Approval Criteria. In order to approve an Administrative Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for an Administrative Conditional Use application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The proposal complies with conditions of an applicable conditional use approval.
4. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability of properties adjoining the subject site.
5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

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- D. Submission Requirements. An application for a Administrative Conditional Use shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Administrative Conditional Use application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Administrative Conditional Use application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

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4. Conditional Use.

- A. Threshold. An application for Conditional Use shall be required when the following threshold applies:
1. A new conditional use is proposed.
- [ORD 4332; November 2004]
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Conditional Use. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Conditional Use application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal will comply with the applicable policies of the Comprehensive Plan.
 4. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.
 5. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.15.15.4.

- D. Submission Requirements. An application for a Conditional Use shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Conditional Use application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Conditional Use application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

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5. Preliminary Planned Unit Development.

- A. Threshold. A Preliminary Planned Unit Development (PUD) application is an optional application process which may be chosen by the applicant. A Preliminary PUD application is the first application of a two-step application process with a Final PUD application as the second step. A Preliminary PUD is a plan that generally demonstrates the ultimate development of a project. A Preliminary PUD may be applied to properties within any City zoning district except Residential-Agricultural (RA).
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Preliminary PUD. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Preliminary PUD application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Preliminary PUD application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal meets the Site Development Requirement for setbacks within the applicable zoning district for the perimeter of the parent parcel unless the setbacks are approved as an Adjustment, Flexible Setback or Variance which shall be considered concurrently with the subject proposal.
 4. The proposal will comply with the applicable policies of the Comprehensive Plan.
 5. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.

40.15.15.5.C.

6. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.
 7. Lessening the Site Development Requirements results in benefits to the site, building, and structural design or preservation of natural features that could otherwise not be achieved.
 8. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Preliminary PUD shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Preliminary PUD application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary PUD application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. The decision shall expire two (2) years after of the date of decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

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6. Final Planned Unit Development

- A. Threshold. A Final Planned Unit Development (PUD) application is the second application of a two-step application process with a Preliminary PUD as the first step. A Final PUD application may also be a one-step application process which is an alternative to the two-step process required when an applicant chooses to apply for a Preliminary PUD. The option of a one-step or two-step process rests with the applicant. The requirements for a Final PUD may be applied to properties within any City zoning district except Residential-Agricultural.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Final PUD approval. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Final PUD application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Final PUD application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. If a Preliminary PUD has been approved, the Final PUD is filed within two (2) years or the Preliminary PUD has received an extension approval pursuant to Section 50.93 of this Code.
 4. The final PUD complies with the approved Preliminary PUD, if any.
 5. The proposal meets the Site Development Requirement for setbacks within the applicable zoning district for the perimeter of the parent parcel unless the setbacks are approved as an Adjustment, Flexible Setback or Variance which shall be considered concurrently with the subject proposal.

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6. The proposal complies with the applicable policies of the Comprehensive Plan.
7. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.
8. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.
9. The lessening of the Site Development Requirements results in benefits to the enhancement of site, building, and structural design or preservation of natural features.
10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a Final PUD shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Final PUD application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Final PUD application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.70.

G. Expiration of a Decision.

1. If the application proposes to develop the PUD in a single phase, the decision shall expire two (2) years after the date of decision. Refer to Section 50.90.

40.15.15.6.G.

2. If the application proposes to develop the PUD over multiple phases, the decision making authority may approve a time schedule of not more than five (5) years for the multiple development phases. However, all PUD phases must commence construction within five (5) years of the date of decision of the Final PUD. Refer to Section 50.90.

H. Extension of a Decision. Refer to Section 50.93.

